



DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 241

[Docket No. RITA-2011-0001]

RIN 2105-AE31

Ancillary Airline Passenger Revenues

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Department of Transportation (the Department) is withdrawing a notice of proposed rulemaking (NPRM) published on July 15, 2011 that proposed to collect detailed revenue information regarding airline imposed fees from those air carriers meeting the definition of a large certificated air carrier. We are withdrawing this rulemaking in light of the comments we received. The withdrawal of this rulemaking corresponds with the Department's and Administration's priorities and is consistent with the Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, January 30, 2017.

DATES: Amendatory instructions 3 through 6 of the proposed rule published July 15, 2011 (76 FR 41726), are withdrawn as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: *Electronic Access:* You can view and download related documents and public comments by going to the website <http://www.regulations.gov>. Enter the docket number DOT-**RITA-2011-0001** in the search field.

FOR FURTHER INFORMATION CONTACT: Zeenat Iqbal and Blane A Workie, Office of Aviation Enforcement and Proceedings, 1200 New Jersey S.E., Room W96-414, Washington, D.C. 20590, (202) 366-9893, zeenat.iqbal@dot.gov (email).

SUPPLEMENTARY INFORMATION:

Background:

On July 7, 2011, the Office of the Secretary issued a notice of proposed rulemaking (NPRM) proposing to collect detailed information about ancillary fees paid by airline consumers to determine the total amount of fees carriers collect through the *a la carte* pricing approach for optional services related to air transportation. The Department also proposed to alter its matrix for collecting and publishing data on mishandled baggage and to collect information regarding damage, delay or loss of wheelchairs and scooters transported in the aircraft cargo compartment. The final rule relating to reporting of data for mishandled baggage and wheelchairs (2104-AE41) was issued on November 2, 2016 (81 FR 76300). We are withdrawing the other topic covered in the proposed rule, the reporting of airline fee revenue.

The NPRM

In the NPRM, the Department proposed to create two stand-alone reporting forms, designated P-9 and P-9.1, to capture ancillary revenues. Specifically, air carriers with annual reporting revenue of \$20 million or more would be required to submit the P-9 form quarterly and air carriers with annual reporting revenue below \$20 million would be required to submit the form P-9.1 on a semiannual basis. The information required by the two proposed schedules was identical; they differed only in the required reporting frequency. The NPRM also proposed to define ancillary revenues as those charges paid by airline passengers that are not included in the standard ticket fare. The Department solicited comments on which items should be specifically identified as ancillary

revenues, and proposed to collect data on 19 separate charges for optional services. The categories included: (1) booking fees, (2) priority check-in and security screening, (3) baggage, (4) in-flight medical equipment, (5) in-flight entertainment/ internet access, (6) sleep sets, (7) in-flight food/ non-alcoholic drinks, (8) alcoholic drinks, (9) pets, (10) seating assignments, (11) reservation cancellation and change fees; (12) charges for lost ticket; (13) unaccompanied minor/passenger assistance fee; (14) frequent flyer points/ points acceleration; (15) commissions on travel packages; (16) travel insurance; (17) duty-free and retail sales; (18) one-time access to lounges and (19) other.

Comments Received

In response to the 2011 NPRM, the Department received approximately 280 comments from airlines, airports, trade associations, unions, consumer groups and private citizens who use this data. There was wide support among consumers and consumer rights groups for the proposed rule's reporting requirements. Consumers and consumer rights groups, as well as ACI-NA and Southwest Airlines, commented that the reporting requirement would bring the benefits of both increased transparency and improved data corroboration regarding the impact of ancillary fees on the Airport and Airway Trust Fund.

On the other hand, most airlines and industry organizations commented that the proposed rule will not benefit the public because the Department has not demonstrated a need for this information. They asserted that the rule will not increase the transparency of pricing for airline revenues. Airlines also commented that if the justification for this rule is to tax ancillary revenues, the Department must state that justification. In addition, several airlines and industry groups suggested that the Department underestimated the proposed rule's economic burden on industry.

With regard to the proposed 19 categories, industry groups, consumer groups and airlines commented that the Department failed to justify the proposed categories and suggested various

changes to the list of 19 charges for which air carriers would have to report revenues under the proposed rule. Carriers also expressed concern that the proposed reporting requirements would require carriers to reveal proprietary information to their competitors. Some carriers suggested that there is no correlation between a carrier's disclosure of itemized aggregate revenue data and consumer concerns regarding fare transparency. Southwest Airlines, which supported the Department's stated goal of making ticket pricing more transparent for consumers, also urged the Department to reduce the number of categories by half.

Reason for withdrawal

The purpose of this rulemaking was to make airline pricing more transparent to consumers and airline analysts. Although we believe there would be benefits of collecting and publishing the proposed aviation data, the Department also takes seriously industry concerns about the potential burden of this rule. The Department is withdrawing this rulemaking proposal. The withdrawal of this rulemaking corresponds with the Department's and Administration's priorities and is consistent with the Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, January 30, 2017.

Issued in Washington, D.C. on December 5, 2017.

Elaine L. Chao,
Secretary of Transportation.

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